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10/823,255	04/13/2004	Gary J. Naarup	POP-101US	3494
31425 7590 12/27/2007 INDIANO VAUGHAN LLP ONE N. PENNSYLVANIA STREET SUITE 1300 INDIANAPOLIS, IN 46204			EXAMINER YOO, REGINA M	
			ART UNIT 1797	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/823,255

Applicant(s)

NAARUP, GARY J.

Examiner

Regina Yoo

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters; prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4,20,32-39 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 32-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 54-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **FINAL ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group II claims 20 and 43-53 in the reply filed on 9/04/2007 is acknowledged. The traversal is on the ground(s) that "using the apparatus with a materially different process, such as those listed by the Examiner above, would not provide the same air purification results... [or] would be unnecessarily complicated and the goal of providing an optimized, yet simple and inexpensive system would be compromised... [and] [t]herefore, the apparatus cannot be practiced with a materially different process". This is not found persuasive because the fact that the same air purification does not result when using other processes with the device indicates that the device is capable of being used for practicing a materially different process. Moreover, whether or not the alternate, materially different processes would be unnecessarily complicated or that system will not be optimized or simple or inexpensive does not prevent the device from being used to practice other materially different processes. Finally, as the inventions have acquired a separate status in the art in view of their different classification and require a different field of search, there would be a serious search and examination burden if restriction were not required.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 4 and 32-39 drawn to an invention nonelected with traverse in the reply filed on 9/04/2007. A complete reply to the final rejection must

include cancellation of nonelected claims or other appropriate action (37 CFR 1.144)

See MPEP § 821.01.

### ***Claim Objections***

3. Claim 20 is objected to because of the following informalities:
- in line 3, the word "attenuator" is not completely visible;
  - in line 5, the word "passageway" is not completely visible;
  - in line 6, the period for the claim is located between "ozo" and "ne" of the word ozone.

Appropriate correction is required.

4. Claim 54 is objected to because of the following informalities: in line 4, "lin" appears to be an incomplete word. Appropriate correction is required. For examination purposes, it will be treated to mean "linear" based on the disclosure in p. 9 line 21 of Specification.

5. Claim 56 is objected to because of the following informalities: in line 11, "lampand" is missing a space between "lamp" and "and" as well as a correct punctuation at the before the word "and".

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 54-58 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

First, there is no written description of "hardware" that is adapted for mounting in an HVAC duct, though there is in p.7 lines 30-31 for mounting the unit to another structure.

Second, there is no written description that "a controller" that is electrically connected to an HVAC apparatus, though the disclosure in Specification p. 13 line29 to p. 14 line 1 that the electrical connection/switch for the lamp "may utilize...HVAC fan...for activating the switch(es)".

9. Claim 55 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, there is not a written description that the adjustment member is a handle.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 54 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, it is not clear and indefinite as to what "a lin and non-linear taper" is attempting to disclose and how a tapered slot has both "a lin and non-linear taper".

***Claim Rejections - 35 USC § 102***

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by McMillan Jr. (3752748) or Nelson (20020098109).

McMillan Jr. ('748) discloses an apparatus (A) comprising:

at least one lamp (V) for emitting ozone-producing radiation (see entire document, particularly Col. 2, lines 58-61, Col. 3, lines 28-29 and Col. 4, lines 54-62);  
an attenuator (T – 60, 61, 62, 63) for mechanically adjusting (through using 66, 66a, 68, 70, 71, 72, 73) an amount of the ozone-producing radiation being emitted (see entire document, particularly Col. 3 lines 5-7, Col. 5, lines 56-61 and Col. 6, lines 1-4, 10-13 and 33-39) without touching the lamp (V) (the telescoping assembly T is deemed to not touch the lamp V as the diameters of the telescoping sleeves 61, 62, 63 must be

greater than the diameter of the lamp V in order to be able to freely lengthen/elongate or retract over the length of the lamp); and

an air passageway (23) for receiving the amount of ozone-producing radiation being emitted (see entire document, particularly Col. 3, lines 27-29 and 61-74 where the chamber 23 is an air passageway since there is a flow of gas through the chamber).

Nelson ('109) discloses an apparatus (2a) comprising:

at least one lamp (36) for emitting ozone-producing radiation (see entire document, particularly page 5, paragraph 0062]);

an attenuator (89) for mechanically adjusting (through using 72) an amount of the ozone-producing radiation being emitted (see page 8, paragraph [0074]) without touching the lamp (36) (see page 8, first four lines of paragraph [0076]); and

an air passageway (8) for receiving the amount of ozone-producing radiation being emitted (see entire document, particularly p.6 [0064]-[0065], specifically first five lines of [0065], and page 8, paragraph [0074]).

### ***Claim Rejections - 35 USC § 103***

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

15. Claims 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan Jr. (3752748) in view of Nelson (20020098109) and Na (5755103).

As to Claim 54, McMillan Jr. ('748) discloses an apparatus (A) comprising:

a lamp (V) operative to emit ozone producing radiation (see entire document, particularly Col. 2, lines 58-61, Col. 3, lines 28-29 and Col. 4, lines 54-62);

first (61, 62, 63) and second (60) pipes with cylindrical sides (see Figures 2, 5-7) respectively having first (where the first pipe protrudes out) and second openings (at 63a where 66 is located) (see Figures 5-7, openings being the open end portions where the pipes protrude out from the other), the first (61, 62, 63) and second (60) pipes fully enclosing a length of the lamp (V) (see Figures 2, 5-7, Col. 5, lines 51-61) and being concentric with respect to one another (see Figures 5-7 and Col. 5, lines 62-66), the second pipe (60) being fixed (see Figures 2 and 5, Col. 5, lines 66-74); and

an adjustment member (66, 66a) connected to the first pipe (63, 63a) (see Figures 5 and 7) for moving the first opening (see Figures 2, 5, 7) with respect to the second opening (see Figures 2, 5 and 6), thereby adjusting an overlap of the first and second openings, wherein the adjusting of the overlap (by lengthening/elongating the first pipes 61-63) is operative to adjust an amount of ozone being produced by the ozone-producing radiation (see entire document, particularly Col. 5, lines 56-61 and Col. 6, lines 1-4, 10-13 and 33-39);

a controller (12b) for closing/opening an electrical connection to the lamp (V) (see Col. 2, lines 53-58), where the controller being capable of being electrically connected to an HVAC apparatus.

McMillan Jr. ('748) does not appear to specifically teach that the first and second pipes respectively have first and second openings in respective cylindrical sides thereof, nor that the first opening is a tapered slot having a linear and nonlinear taper, nor that



the adjustment member is for rotating the first opening with respect to the second opening, nor that the controller is also electrically connected to an HVAC apparatus or that there is hardware adapted for mounting in an HVAC duct.

As to the limitation that the first and second pipes respectively having first and second openings in respective cylindrical sides thereof, Nelson ('109) discloses an air purifying apparatus (2a-2k, 100a-100d) comprising:

a lamp (36) operative to emit ozone producing radiation (12) (see entire document, particularly page 5, paragraph 0062]);

first pipe (72, 164) and second pipe (78, 178), where the first pipe has first openings (89, 174) in its cylindrical side thereof (see Figures 6-8 and 10) in order to "regulate the amount of radiation emitted in the ozone chamber (i.e., the amount of radiation permitted to pass from the bulb through the end-cap into the ozone chamber), thereby controlling ozone production" (see page 8, paragraph [0074]).

It was known in the art at the time of invention to provide openings on a pipe that covers an UV lamp as exemplified by Nelson ('109). It would have been obvious to one of ordinary skill in this art at the time of invention to provide openings in the first and second pipes in the apparatus of McMillan Jr. in order to provide an alternative and/or additional means to regulate the amount of radiation emitted in the ozone chamber as shown by Nelson.

As to the limitation that the first opening is a tapered slot having a linear and non-linear taper, while Nelson ('109) discloses that the first openings are elliptical or rectangular slots in Figures 6-8 where the slots in Figures 6, 8 and 20-22 are linear and the slots in Figure 7 is shown to be non-linear/helical configuration, Nelson ('109) also discloses that the openings "may be any size or shape" and is deemed to include a tapered shape and it would have been obvious to one of ordinary skill in the art to provide tapered slots in the device of McMillan as modified by Nelson as an alternate design/shape of slots.

As to the limitation that the adjustment member is for rotating the first opening with respect to the second opening, while McMillan ('748) appears to disclose an adjustment member which utilizes a linear elongation/movement for displacing the first opening with respect to the second opening, it is deemed that the telescoping unit (T; particularly 61-63) are capable of being rotatable as they are concentric cylindrical pipes that is allowed movement with respect to each other. Thus, it would have been obvious to one of ordinary skill in the art (of automating movement of a part – namely the adjustment member) at the time of invention to provide a rotational elongation/movement in the apparatus of McMillan Jr. in order to provide an alternate means of adjusting the telescoping length of the first pipes.

As to the limitation that the controller is also electrically connected to an HVAC apparatus, while McMillan Jr. ('748) discloses that the apparatus (A) further comprises a

controller (12b) for closing/opening an electrical connection to the lamp (V) and Nelson ('109) discloses using the ozone generating UV lamp and the enclosure for limiting such radiation into the ozone chamber for an HVAC apparatus (see rejection of claim 44 above) and connecting the ozone generator (i.e. the UV lamp) to a central power supply which also supplies power to the HVAC apparatus (see entire document, particularly page 11, paragraph [0091]), neither appears to specifically teach that the controller is electrically connected to HVAC apparatus.

It was well known in the art at the time of invention to connect the controller of an UV lamp to an HVAC apparatus. Na ('103) exemplifies an apparatus (see Figure 1) which utilizes an UV lamp (20) for sterilization purpose wherein the controller of the UV lamp (180) for closing/opening electrical connection to the lamp (20) (see Col. 4, lines 22-23 and 41-42) is electrically connected to HVAC apparatus (100) in order to effect sterilization of the HVAC apparatus (i.e. housing 1) (see entire document, particularly Columns 4 and 5, specifically Col. 4, lines 21-29, 40-45 and 54-65 and Col. 5, lines 36-52). It would have been obvious to one of ordinary skill in this art at the time of invention to electrically connect the UV lamp controller of McMillan as modified by Nelson to HVAC apparatus as exemplified by Na.

As to the limitation that the apparatus is comprised of hardware adapted for mounting in an HVAC duct, it was well known in the art at the time of invention to utilize an ozone generating lamp in an HVAC duct. Nelson ('109) exemplifies an apparatus for generating ozone within an HVAC duct in his disclosure of the apparatus (100d, 2j)

which further comprises hardware (106 for example) adapted for mounting the apparatus in an HVAC duct in order "to remove contaminants from air streams within air treatment systems and return purified air to a surrounding environment" (see entire document, particularly page 1, paragraph [0003], page 14, paragraph [0106]-[107], p. 20 [0136]-[0137] and Figures 18-25 and 29-30 – particularly Figures 29-30). It would have been obvious to one of ordinary skill in this art at the time of invention to provide hardware for mounting in an HVAC duct in the device of McMillan in order to treat air streams in HVAC duct as shown by Nelson. Moreover, while the specific details of the hardware utilized for mounting the devices of Nelson in the HVAC duct does not appear to be taught, it was well known in the art (of mounting a device) at the time of invention hardware components for mounting and it would have been obvious to one of ordinary skill in this art at the time of invention to provide such hardware in the device of McMillan as modified by Nelson in order to secure the device so that the device is not mobile during operation and/or to reduce chance that the device will become damaged if not secured.

As to Claims 56, McMillan Jr. ('748) discloses an apparatus (A) comprising:  
an ultraviolet(UV) ozone-generating lamp (V) secured to and extending from a plate (20, 22, 60b, 65) (see entire document, particularly Figures 2 and 5, Col. 2, lines 58-61, Col. 3, lines 28-29 and Col. 4, lines 54-72);  
a first enclosure (60) and a second enclosure (61, 62, 63), the enclosures being coaxial and cylindrical (see Figures 2, 5-7), the first enclosure (60) being fixed to the

plate (60b, 65, 22) (see Figure 2) and surrounding the second enclosure (61-63) (see Figures 2, 5-7), the second enclosure (61-63) capable of being rotatable and fully enclosing the lamp (V) (when the second enclosure is fully extended), with first (where the second enclosure is extended from) and second (at 63a where 66 is located) openings (see Figures 5-7, openings being the open end portions where the pipes protrude out from the other) wherein an amount of overlap of the openings is varied by rotation of the second enclosure (that is, by lengthening/elongating the second enclosure 61-63 which are capable of being lengthened through rotational displacement/lengthening), such amount of overlap corresponding to a relative amount of ozone produced by the lamp when energized (see entire document, particularly Figure 2 and 5, Col. 5, lines 56-61 and Col. 6, lines 1-4, 10-13 and 33-39); and

a controller (12b) for closing/opening an electrical connection to the lamp (V) (see Col. 2, lines 53-58), where the controller being capable of being electrically connected to an HVAC apparatus.

McMillan Jr. ('748) does not appear to specifically teach that the sides of the first and second enclosures each having an opening wherein the enclosures fully enclose the lamp except for any overlap of the openings, nor that the controller is also electrically connected to an HVAC apparatus or that there is hardware adapted for mounting in an HVAC duct.

As to the limitation that the first and second pipes respectively having first and second openings in respective cylindrical sides thereof, it was known in the art at the

time of invention to provide an opening in the enclosure of an UV lamp generating ozone. Nelson ('109) discloses an apparatus (2a-2k, 100a-100d) in which the sides of an enclosure (72, 166) possessing openings (89, 174) to control the amount of radiation being emitted (see page 8, paragraph [0074]). It would have been obvious to one of ordinary skill in this art at the time of invention to provide openings in the first and second enclosures in the device of McMillan Jr. as an alternate and/or additional means in order to regulate the amount of radiation passed from the bulb into the ozone chamber as shown by Nelson.

As to the limitation that the controller is also electrically connected to an HVAC apparatus, while McMillan Jr. ('748) discloses that the apparatus (A) further comprises a controller (12b) for closing/opening an electrical connection to the lamp (V) and Nelson ('109) discloses using the ozone generating UV lamp and the enclosure for limiting such radiation into the ozone chamber for an HVAC apparatus (see rejection of claim 44 above) and connecting the ozone generator (i.e. the UV lamp) to a central power supply which also supplies power to the HVAC apparatus (see entire document, particularly page 11, paragraph [0091]), neither appears to specifically teach that the controller is electrically connected to HVAC apparatus.

It was well known in the art at the time of invention to connect the controller of an UV lamp to an HVAC apparatus. Na ('103) exemplifies an apparatus (see Figure 1) which utilizes an UV lamp (20) for sterilization purpose wherein the controller of the UV lamp (180) for closing/opening electrical connection to the lamp (20) (see Col. 4, lines

22-23 and 41-42) is electrically connected to HVAC apparatus (100) in order to effect sterilization of the HVAC apparatus (i.e. housing 1) (see entire document, particularly Columns 4 and 5, specifically Col. 4, lines 21-29, 40-45 and 54-65 and Col. 5, lines 36-52). It would have been obvious to one of ordinary skill in this art at the time of invention to electrically connect the UV lamp controller of McMillan as modified by Nelson to HVAC apparatus as exemplified by Na.

As to the limitation that the apparatus is comprised of hardware adapted for mounting in an HVAC duct, it was well known in the art at the time of invention to utilize an ozone generating lamp in an HVAC duct. Nelson ('109) exemplifies an apparatus for generating ozone within an HVAC duct in his disclosure of the apparatus (100d, 2j) which further comprises hardware (106 for example) adapted for mounting the apparatus in an HVAC duct in order "to remove contaminants from air streams within air treatment systems and return purified air to a surrounding environment" (see entire document, particularly page 1, paragraph [0003], page 14, paragraph [0106]-[107], p. 20 [0136]-[0137] and Figures 18-25 and 29-30 – particularly Figures 29-30). It would have been obvious to one of ordinary skill in this art at the time of invention to provide hardware for mounting in an HVAC duct in the device of McMillan in order to treat air streams in HVAC duct as shown by Nelson. Moreover, while the specific details of the hardware utilized for mounting the devices of Nelson in the HVAC duct does not appear to be taught, it was well known in the art (of mounting a device) at the time of invention hardware components for mounting and it would have been obvious to one of ordinary

skill in this art at the time of invention to provide such hardware in the device of McMillan as modified by Nelson in order to secure the device so that the device is not mobile during operation and/or to reduce chance that the device will become damaged if not secured.

As to Claim 57, McMillan Jr. ('748) discloses that an adjustment member (66, 66a) connected to the second enclosure (63, 63a) (see Figures 5 and 7).

As to Claims 55 and 58, McMillan Jr. ('748) discloses that the adjustment member is a clasp or a hook (see Col. 6, line 7-13), which is a knob and/or a handle.

Thus, Claims 54-58 would have been obvious within the meaning of 35 U.S.C. 103(a) over the combined teachings of McMillan Jr. ('748), Nelson ('109) and Na ('103).

### ***Response to Arguments***

16. Applicant's arguments filed 9/04/2007 have been fully considered but they are not persuasive.

Specifically, Applicant's argument that the devices of McMillan Jr. and Nelson are not "able to produce ozone in a residential air duct for the purpose of air purification and/or odor removal", Examiner would disagree and point out that the device of Nelson is used to produce ozone in a residential air duct (see entire document, particularly page 1, paragraph [0003], page 14, paragraph [0106]-[107], p. 20 [0136]-[0137] and



Figures 18-25 and 29-30). As to the device of McMillan Jr., a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

In response to Applicant's argument that "the apparatus in McMillan and the apparatus in Nelson adjust the amount of gas that flows past a lamp mounted in a chamber [and that] Applicants' apparatus adjusts a beam of light in an HVAC duct, not the flow of air or gas as in McMillan and Nelson", Examiner would disagree and point out that the apparatus of McMillan does adjust the light shining from the UV lamp into a duct/chamber through the telescoping unit T with the control 17 and the apparatus of Nelson also adjust the amount of light emitted with openings in the end-cap 72 to regulate amount of radiation being emitted. In addition, the apparatus of Nelson in the embodiments shown in Figures 18-19 and 29-30 (see also 5<sup>th</sup>-6<sup>th</sup> lines of [0107] on p.14) does not adjust the amount of gas that is flowing through the device since these appear to receive and treat the whole volume of air flow in the HVAC duct. While device of McMillan Jr. may also adjust the amount of gas that flows past a lamp mounted in a chamber, Examiner points out that Applicant does not exclude the apparatus from adjusting gas flow. Even in the case that the Applicant does exclude adjustment of air flow, the device of McMillan is capable of treating the gas that is

provided/received/flowing through the device without adjustment with UV ozone-generating lamp.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "not allow air to flow through a chamber" and "allow light from the lamp to shine into the HVAC duct work") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that "the shape of the shutter is novel", Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Moreover, a change in shape of the opening that control the amount of UV light being emitted (from those shown by Nelson to that of Applicant's shape) "is a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particularly configuration of the claimed [shape for the opening] is significant" (see MPEP §2144.04, section IV, subsection A).

***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Yoo whose telephone number is 571-272-6690. The examiner can normally be reached on Monday-Friday, 9:30 am - 6:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RY



GLADYS JF CORCORAN  
SUPERVISORY PATENT EXAMINER